

HONORABLE ROSANNA MALOUF PETERSON

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Ambulance Service, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

HALEY KARNITZ, an individual,

No. 2:19-cv-00056 RMP

Plaintiff,

**DEFENDANT’S ANSWER AND
AFFIRMATIVE DEFENSES TO
FIRST AMENDED COMPLAINT**

v.

AMERICAN MEDICAL RESPONSE
AMBULANCE SERVICE, INC., a
Delaware corporation,

Defendants.

Defendant American Medical Response Ambulance Service, Inc. (“AMR”), by
and through its undersigned counsel, answers Plaintiff’s Complaint and alleges
affirmative defenses as follows:

I. PARTIES, JURISDICTION AD VENUE

1.1 Admitted.

1 1.2 Admitted.

2 1.3 Admitted.

3 1.4 Admitted.

4 1.5 Admitted.

5 1.6 Admitted.

6
7 1.7 Defendant admits that Plaintiff filed a Charge of Discrimination with
8 the EEOC and filed her First Amended Complaint within 90 days of Plaintiff's
9 receipt of the EEOC's Notice of Right to Sue Letter. Defendant denies the
10 remaining express and implied allegations of this paragraph.
11
12

13 II. FACTUAL ALLEGATIONS

14 2.1 Defendant admits that it is an "employer" as defined in 29 U.S.C. §
15 203(d), 42 U.S.C. § 2000e(b), 42 U.S.C. § 12111(5), and RCW 49.58.010(5).
16 Defendant denies the remaining express and implied allegations of this paragraph.
17

18 2.2 Defendant admits that Plaintiff is, and at all times relevant to the
19 complaint, was an "employee" as defined in 29 U.S.C. § 203(d), 42 U.S.C. §
20 2000e(b), 42 U.S.C. § 12111(5), and RCW 49.58.010(5). Defendant denies the
21 remaining express and implied allegations of this paragraph.
22

23 2.3 Admit.

24 2.4 Defendant admits that it promoted Plaintiff from the position of part-
25 time EMT-B to full-time Paramedic in 2010.
26
27
28

1 2.5 Defendant admits that Plaintiff may have served as “relief supervisor”
2 on an as-needed basis beginning in approximately April of 2015. Defendant denies
3 this was a promotion.

4 2.6 Defendant admits that Plaintiff was promoted to the role of Operations
5 Supervisor, which is sometimes referred to as a “field supervisor,” in October
6 2015.

7
8 2.7 Admit.

9 2.8 Defendant admits that Mr. Ramsey directed Plaintiff to ensure that
10 uniforms in good condition that were thrown in a dumpster were retrieved from the
11 dumpster. Defendant denies that Mr. Ramsey required Plaintiff to personally
12 remove the uniforms from the dumpster or that anyone should climb into the
13 dumpster.

14
15 2.9 Deny.

16 2.10 Deny.

17
18 2.11 Deny.

19 2.12 Defendant admits that in approximately early 2017, Plaintiff
20 complained to Mr. Priest about her concerns about receiving phone calls when she
21 was off-duty in the evenings, the chain of command, communications with Mr.
22 Ramsey, and the need for more training. Defendant denies the remaining express
23 and implied allegations of this paragraph.

24
25 2.13 Deny.

26 2.14 Admit.

1 2.15 Admit.

2 2.16 Defendant admits that Plaintiff began serving as an administrative
3 operations supervisor, also called chief operations supervisor, after she returned
4 from maternity leave in January 2017. Defendant denies that this new assignment
5 was a promotion.
6

7 2.17 Defendant admits that Plaintiff did not receive a change in her
8 compensation in January 2017 because the role of administrative operations
9 supervisor does not typically involve a change in compensation from the role of
10 operations supervisor.

11 2.18 Deny.

12
13 2.19 Defendant admits that, in approximately January of 2017, Plaintiff
14 inquired about whether she would receive a pay increase for serving in the role of
15 administrative operations supervisor. Mr. Priest explained that the role does not
16 involve an automatic pay raise and that any possible pay increases would be based
17 upon future performance. Defendant lacks sufficient information to admit or deny
18 the allegations of this paragraph, and therefore, denies them.

19 2.20 Deny.

20
21 2.21 Deny.

22 2.22 Defendant lacks sufficient information and knowledge to admit or
23 deny whether or when Plaintiff breastfed her child. Defendant denies the remaining
24 express and implied allegations of this paragraph.
25

26 2.23 Defendant denies that Mr. Ramsey engaged in any campaign to
27 undermine Plaintiff. Defendant admits that in approximately January of 2017,
28

1 Plaintiff called Mr. Priest late one night about her concerns about receiving phone
2 calls when she was off-duty in the evenings, the chain of command,
3 communications with Mr. Ramsey, and the need for more training. Plaintiff stated
4 that she wanted to quit. Mr. Priest suggested that she take a couple days off
5 instead. In response to her concerns, Mr. Priest and Mr. Ramsey developed a
6 training document that they presented to her in February 2017. Defendant denies
7 the remaining express and implied allegations of this paragraph, and therefore,
8 denies them.

9 2.24 Deny.

10
11 2.25 Defendant denies that Plaintiff ever informed Mr. Priest, Mr. Ramsey,
12 or human resources that she was experiencing post-partum depression. Defendant
13 lacks sufficient information to admit or deny the remaining allegations of this
14 paragraph, and therefore, denies them.

15 2.26 Deny.

16
17 2.27 Defendant admits that, after her superiors raised concerns about her
18 performance in May of 2017, Plaintiff expressed that stressors in her home life
19 were impacting her work and relayed that she was going to make some changes to
20 address that. Defendant admits that it allowed Plaintiff to adjust her work schedule
21 to accommodate her need to get her children to and from childcare and that Mr.
22 Priest and Mr. Ramsey recommended that she seek the assistance of Defendant's
23 EAP program. Defendant denies that Plaintiff ever mentioned suffering from post-
24 partum depression or requested any accommodation for a disability to Mr. Priest or
25 Mr. Ramsey. Defendant lacks sufficient information to admit or deny the
26 allegations of this paragraph, and therefore, denies them.

1 2.28 Defendant denies that “suddenly, the entire orientation shifted” and
2 that Mr. Priest or Mr. Ramsey denied Plaintiff any accommodation for any
3 disability. Defendant admits that Plaintiff requested a schedule change to help
4 with transporting her children to and from childcare that Defendant
5 accommodated. Defendant admits that Plaintiff asked to work from home and that
6 request was denied due to the nature of her job. Defendant admits that Mr. Priest
7 and Mr. Ramsey explained that Plaintiff was not meeting expectations. Defendant
8 denies the remaining express and implied allegations of this paragraph.

9 2.29 Defendant lacks sufficient information to admit or deny the
10 allegations of this paragraph, and therefore, denies them.

11 2.30 Defendant admits only that Mr. Priest and Mr. Ramsay gave Plaintiff
12 time off to decide whether she wished to stay in her current role. Defendant denies
13 the remaining express and implied allegations of this paragraph.

14 2.31 Defendant admits that on June 1, 2017, she was provided with a
15 Supervisor Performance Appraisal in which she was rated as “meets expectations”
16 or “exceeds expectations” in the categories rated. Defendants admit that the
17 performance appraisal instructed Plaintiff to get in-person training to become more
18 proficient with Outlook and to work on inventory. Defendant also admits that the
19 Performance Appraisal noted that “multiple things come her way which had
20 overwhelmed” Plaintiff and she had “a difficult time in this position in multi-
21 tasking” and “delegating tasks that some of her team could help with.” Defendant
22 denies the remaining express and implied allegations of this paragraph, including
23 that this feedback was minor.

24 2.32 Admit.

1 2.33 Defendant admits that it demoted Plaintiff to the role of Paramedic,
2 for legitimate business reasons. Defendant admits that Ed Palmer was transferred
3 from the role of administrative operations supervisor to operations supervisor (also
4 known as field supervisor) Defendant denies that Plaintiff and Mr. Palmer were
5 substantially similar in all material respects. Defendant denies any remaining
6 allegation of this paragraph.

7 2.34 Deny.

8
9 2.35 Deny.

10 2.36 Deny.

11
12 2.37 Deny.

13 2.38 Defendant lacks sufficient information to admit or deny the
14 allegations of this paragraph, and therefore, denies them.

15
16 2.39 Deny.

17 2.40 Deny.

18
19 2.41 Deny.

20
21
22 **III. FIRST CAUSE OF ACTION**
23 **Sex Discrimination/Pregnancy Discrimination**
24 **Title VII of the Civil Rights Act**
25 **42 U.S.C § 2000e-2**

26 3.1 Defendant incorporates its answers to paragraphs 1.1-2.41 as though
27 fully set forth herein.

28 3.2 Deny.

3.3 Deny.

IV. SECOND CAUSE OF ACTION
Sex Discrimination
Washington Law Against Discrimination
RCW 49.60.180

4.1 Defendant incorporates its answers to paragraphs 1.1-3.3 as though fully set forth herein.

4.2 Deny.

4.3 Deny.

V. THIRD CAUSE OF ACTION
Disability Discrimination and/or Failure to Reasonably Accommodate
Americans With Disabilities Act
42 U.S.C. §12112

5.1 Defendant incorporates its answers to paragraphs 1.1-4.3 as though fully set forth herein.

5.2 Deny.

5.3 Deny.

VI. FOURTH CAUSE OF ACTION
Disability Discrimination and/or Failure to Reasonably
Accommodate
Washington Law Against Discrimination
RCW 49.60.180

6.1 Defendant incorporates its answers to paragraphs 1.1-5.3 as though fully set forth herein.

6.2 Deny.

6.3 Deny.

VII. FIFTH CAUSE OF ACTION
Sex-Based Pay Discrimination
Equal Pay Act
29 U.S.C. § 206(d)

7.1 Defendant incorporates its answers to paragraphs 1.1-6.3 as though fully set forth herein.

7.2 Deny.

7.3 Deny.

VIII. SIXTH CAUSE OF ACTION
Sex-Based Pay Discrimination

RCW 49.12.175 and/or RCW 49.58.020 and RCW 49.58.030

8.1 Defendant incorporates its answers to paragraphs 1.1-7.3 as though fully set forth herein.

8.2 Deny.

8.3 Deny.

IX. SEVENTH CAUSE OF ACTION
Retaliation
Title VII of the Civil Rights Act
42 U.S.C. § 2000e-3

9.1 Defendant incorporates its answers to paragraphs 1.1-8.3 as though fully set forth herein.

9.2 Deny.

9.3 Deny.

EIGHTH CAUSE OF ACTION
Retaliation
Washington Law Against Discrimination
RCW 49.60.210

10.1 Defendant incorporates its answers to paragraphs 1.1-9.3 as though fully set forth herein.

10.2 Deny.

10.3 Deny.

JURY DEMAND

Admit.

PRAYER FOR RELIEF

In response to Plaintiff's "Prayer for Relief," Defendant denies any liability to Plaintiff purportedly alleged in the Complaint. Defendant further denies Plaintiff is entitled to any relief, in law or in equity, requested or not, including that requested in Paragraphs 1 through 10 of Plaintiff's "Prayer for Relief" or elsewhere in Plaintiff's First Amended Complaint.

GENERAL DENIAL

Any allegations or statements in the First Amended Complaint, including Plaintiff's Prayer for Relief, not expressly admitted are denied.

AFFIRMATIVE DEFENSES

By way of further answer and without waiving any allegations previously denied, the following affirmative defenses are asserted.

1. Plaintiff has failed to state a claim upon which relief can be granted.

1 2. Plaintiff's damages, if any, were proximately caused by or contributed
2 to by acts, omissions, breaches of contract and/or other legal duties of the Plaintiff.

3 3. Plaintiff was an at-will employee.

4 4. Plaintiff has failed to mitigate the alleged damages, if any.

5 5. The conduct of Defendant was reasonable and undertaken in good
6 faith.

7 6. To the extent Plaintiff proves Plaintiff was subjected to any unlawful
8 harassment, it did not result in a tangible or adverse employment action.

9 7. Defendant exercised reasonable care to prevent and promptly correct
10 any allegedly harassing behavior to which Plaintiff was allegedly subjected.

11 8. Plaintiff unreasonably failed to take advantage of preventive and
12 corrective opportunities provided by Defendant, or otherwise failed to avoid harm.

13 9. To the extent Plaintiff seeks punitive damages, Defendant had an
14 express policy against harassment and a formal complaint procedure, and, to the
15 extent, if any, Plaintiff was subjected to harassment, such harassment was beyond
16 the scope of employment of the person or persons allegedly harassing Plaintiff and
17 contrary to the policies and efforts of Defendant to prevent harassment in its
18 workplace.

19 10. Plaintiff's damages are limited by the doctrine of after acquired
20 evidence.

1 11. In the event a judgment is rendered in favor of the Plaintiff, or there is
2 compromise of this doubtful and disputed claim, this Defendant is entitled to an
3 offset for any advance payment of funds made by this Defendant toward payment
4 of Plaintiff's wage loss, medical expenses or other related damages.
5

6 12. Pending further discovery, Plaintiff's claims may be barred by the
7 doctrines of estoppel, laches and other defenses set forth in Fed. R. Civ. P. 8(c).
8

9 13. Pending further discovery, some or all of the claims in the Complaint
10 may be barred by appropriate statutes of limitation.

11 14. Pending further discovery, Plaintiff failed to exhaust administrative
12 and internal procedures to remedy the situation.
13

14 15. Pending further discovery, Plaintiff's claims may be subject to the
15 defenses set forth in Fed. R. Civ. P. 12(b).
16

17 16. Without modifying Defendant's answers to Plaintiff's allegations in
18 the Complaint, if a trier of fact were to conclude that any protected status or
19 activity motivated, even in part, any employment decision challenged by Plaintiff,
20 which Defendant expressly denies, Defendant affirmatively states that the same
21 decision(s) would have been made without consideration of any protected status or
22 activity.
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RESERVATION OF RIGHTS

In further answer, Defendants reserve the right to add additional defenses and make further claims as may be warranted by discovery.

DATED this 27th day of March, 2019.

JACKSON LEWIS P.C.

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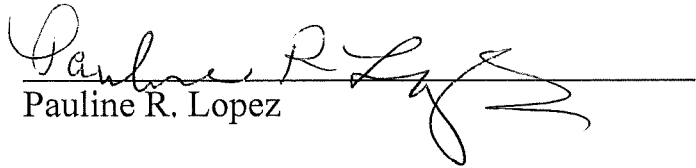
DECLARATION OF SERVICE

The undersigned declares under penalty of perjury under the laws of the United States of America that on this day, I electronically filed a true and accurate copy of the document to which this declaration is affixed with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the following:

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Attorney for Plaintiff

DATED this 27th day of March, 2019.


Pauline R. Lopez